UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,585	06/28/2001	Kanad Ghose	RB-131	5272

41245 7590 04/12/2007		EXAMINER	
MARK LEVY & ASSOCIATES, PLLC		OSMAN, RAMY M	
PRESS BUILDING, SUITE 902			
19 CHENANGO STREET		ART UNIT	PAPER NUMBER
BINGHAMTON, NY 13901		2157	

MAIL DATE	DELIVERY MODE
04/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

PTOL-90A (Rev. 10/06)

	Application No.	Applicant(s)
Advisory Action *Before the Filing of an Appeal Brief*	09/894,585	GHOSE ET AL.
	Examiner	Art Unit	
	Ramy M. Osman	2157	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>28 March 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒   The period for reply expires <u>3 </u>months from the mailing date of the final rejection.

    b) ☐   The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐   The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐   The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐   Applicant's reply has overcome the following rejection(s): _____.

6. ☐   Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒   For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: <u>none</u>.

    Claim(s) objected to: <u>none</u>.

    Claim(s) rejected: <u>1,6-11 and 13-81</u>.

    Claim(s) withdrawn from consideration: <u>5 and 12</u>.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant argues that the "claims require that two separate pieces of information be communicated, (1) a unique range of data and (2) a quantity of data, while Forin teaches sending of only a single parameter".

In reply, it is noted that the features upon which applicant relies (i.e., sending two separate pieces of information) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). For example, in claim 1 step (a), applicant states "initially transmitting first information". This shows that only one piece of information is sent. Nowhere in step (a) does it state transmitting a subsequent piece of information. Rather, the claim states that the information defines "a first unique range of data" and is "represented by a quantity of data". This merely means that the information is a scalar quantity (i.e. the limitation "represented by a quantity of data") which is an actual number, like 3 bytes for example. This also means that this scalar quantity implies that a group of data extending over the range of this actual number will be sent (i.e. the limitation "defining a first unique range of data"), which is an inherent feature when one specifies a number of bytes to send.

So in Forin for example, computer 62 sends information (i.e. credit) to computer 60. This information is an actual number which represents a quantity of data that computer 60 is allowed to send to computer 62. (see Figure 8 and column 22 lines 20-35) This information also defines a unique range of data that computer 60 will send. In this case, computer 60 will send the first three bytes contained in its send buffer to computer 62 (see Figure 8 and column 22 lines 45-65). Therefore it is seen that a range of data is sent. Applicants claim language is broad and is anticipated by Forin.

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